

lawsuit. A comparison of their factual summaries is illuminating.

In what appears to the Court to be the only Complaint, Plaintiffs allege that the 1998 Jeep Cherokee in which they were traveling was caused to lose control and roll over on a road in Idaho. See Notice of Removal, Docket No. 1, Ex. B ("Complaint") ¶ 8. According to the Complaint, the accident took place on May 25, 2005. Id. Plaintiffs allege that certain components of the vehicle, including the roof, roof supports, and restraints, failed during this accident as a result of flaws in their design and manufacture. Id. ¶¶ 10, 11, 17, 18. This failure allegedly resulted in severe and catastrophic injuries to Plaintiffs. See, e.g., id. ¶¶ 12, 19. Plaintiffs brought this suit against DaimlerChrysler AG, DaimlerChrysler Motors Company LLC, and DaimlerChrysler Corporation, alleging causes of action for negligence, strict liability, and breach of warranty. See id. Plaintiffs filed the suit in the Contra Costa County Superior Court on May 9, 2007, and Defendants removed it to this Court on June 20, 2007. See Notice of Removal; Compl. The parties' Joint Case Management Statement suggests the same general factual background. See Joint Case Mgmt. Statement, Docket No. 20.

By contrast, Daimler's brief appears to ask the Court to dismiss a different case entirely. Daimler's brief addresses a November 27, 2003 accident in Fairfield, California. See Def.'s Mem. of P & A in Support of Mot. to Dismiss, Docket No. 11 ("Daimler Mem."), at 2. That accident, unlike the one underlying Plaintiffs' Complaint, apparently involved another vehicle. Id. Further, the complaint which Daimler asks the Court to dismiss was

1 filed in the State Court in November 2005, and amended in October
2 2006. Id. The complaint Daimler addresses alleges problems with
3 the seat, seat back, and restraint system, but not the roof, as
4 Plaintiffs' Complaint does. Id.

5 In short, Daimler is asking the Court to dismiss a lawsuit
6 other than the one presently before the Court.¹ This Court
7 presides over the Plaintiffs' lawsuit. Daimler or any other
8 Defendant seeking to dismiss the present action would be well
9 advised to focus any further submissions on the facts alleged in
10 the Complaint.

11 The Court DENIES Daimler's motion without prejudice.

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13 IT IS SO ORDERED.

14
15 January 10, 2008

16 

17 UNITED STATES DISTRICT JUDGE

18
19 ¹Plaintiffs' counsel could have and should have drawn the
20 Court's and Daimler's attention to this. Whether or not Daimler's
21 legal arguments may be appropriate if applied to the instant facts
22 is irrelevant. The Court must rule on the record before it, and
23 the parties are responsible for creation of that record.

24 This brief is not the only flaw in the record. For example,
25 in the Answer, the other Defendants stated that DaimlerChrysler AG
26 (Daimler's predecessor) had not been served. In the Joint Case
27 Management Statement, the parties stated that all named Defendants
28 had been served. Daimler says in its brief that it had recently
been served pursuant to the Hague Convention. There is no proof of
this service on the record.

The Court encourages counsel to review both the Federal Rules
of Civil Procedure and the Local Rules of Practice for the Northern
District of California. The parties disregard said rules at their
peril. The Court further encourages counsel to review their own
papers prior to submission, so as to be sure they are filing papers
in the correct lawsuit.